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ANNUAL REPORT

OF THE

CONSUMER PROTECTION

COUNCIL

1972-1973

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Department of Financial Institutions, Companies and Cooperatives

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SECOND ANNUAL REPORT

OF THE

CONSUMER PROTECTION COUNCIL

September 1973

Quebec, October 9, 1973.

The Honorable William Tetley
Minister of Financial Institutions,
Companies and Cooperatives
Parliament Building
Quebec.

Dear Mr. Minister:

I have the honour to submit to you the second annual report of the Consumer Protection Council for the period September 16, 1972 to September 7, 1973.

I remain, Sir,

Yours truly,

Laval Grondines.

(Laval Grondines)

President

CONSUMER PROTECTION COUNCIL

INTRODUCTION

The following report gives a general view under five main headings of the Council's activities for the period September 16, 1972 to September 7, 1973.

Part I of this report carries a brief account on the nature and composition of the Council as well as the frequency with which meetings are held and the expenses consequently incurred. The Council's main activities, its Committees' duties, the various subjects studied and a list of the subjects discussed are presented in Part II, whereas Part III deals with the Council's relations with other organizations. Part IV is dedicated to the Council's program for next year; the fifth and final section is a synopsis of all the recommendations contained in the report.

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* For accurate interpretation of this report the word "Council" means the Consumer Protection Council, the word "Act", the Consumer Protection Act (chapter 74 of the 1971 Acts) and the word "Bureau", the Consumer Protection Bureau.

P A R T I

T H E C O U N C I L

I - Its nature

The Consumer Protection Council is an advisory organization created by the Consumer Protection Act. Article 85 of this Act specifies:

"85. The functions of the Council shall be:

(a) to advise and make suggestions to the Minister on any matter he sees fit to submit to it;
(b) to study at the Minister's request any problem respecting the application of this act and to submit reports and suggestions in this respect to the Minister;
(c) to exercise any other advisory function which the Lieutenant-Governor in Council may confer upon it."

In fact, the Council has not been granted any advisory power by the Lieutenant-Governor in Council. We were authorized by you at the first Council meeting to study any subject we may consider important for consumer protection and make any recommendations we may consider appropriate.

An additional power given the Council is mentioned in Article 102 of the Act which specifies

that the regulations referred to in paragraphs (j), (l), and (p) must be submitted to the Council before they can be adopted. These regulations are aimed at:

> "(j), determining standards for packing, labelling or presenting any goods;
> (l), determining standards of quality and safety for goods;
> (p), exempting from the application of this act all or part of such class of persons, goods or contracts as he indicates."

It is your custom to submit to us all regulation drafts prepared under the Act before they are adopted. Last year, the study of these regulation drafts was our main concern; this year, even though such an activity is certainly not negligible, it is far less a major concern.

II - Its Composition

Under the Act, the number of members may not be less than 10 or more than 15. That this last number has not been maintained may be explained by Mr. Clément Mercier's resignation for health reasons on May 3, 1973. Members are appointed for one year but it was agreed that replacements would be appointed as soon as possible at the rate of five members per year.

The first appointments were made in August, 1971. On October 25, 1972 (O.C. 3166-72), new appointments were made. On that occasion, Mr. Laval Grondines was appointed president and Mrs. Cécile Rolland-Bouchard was elected vice-president from December 6, 1970.

The following is a list of the names of members and their related organizations:

President: Mr. Laval Grondines
Charlesbourg
Centrale de l'enseignement du Québec (CEQ)

Vice-President: Mrs. Cécile Rolland-Bouchard
Chicoutimi
Quebec Women's Federation
Economic Expansion Council

Members: Mr. J. André Bellavance
Rimouski
Quebec Chamber of Commerce

Mrs. Charles Bernard
St. Leonard, Montreal
Cercle des Fermières

Mr. Raymond Blais
Lévis
Fédération de Québec des Unions Régionales
des Caisses Populaires Desjardins

Miss Simone Bourgeau, p.s.w.
Montreal
Director of the Service Social de la
Petite Bourgogne

Me Ronald Cohen
Montreal
Automobile Protection Association (APA)
Center for Public Interest Law

Mr. E. Raymond Côté
Quebec City
Retail Council of Canada (Quebec Division)

Mr. Guy Dorval
Montreal Better Business Bureau

Mrs. Dominique Goudreault
Nicolet
Association féminine d'éducation et d'action
sociale (AFFEAS)

Mrs. Flore D. Jutras
Montreal
World Association of Women Executives (A.C.C.)

Mrs. Hanna Lambek
St. Lambert
Association of Canadian Consumers (A.C.C.)

Mr. Clément Mercier
Amos
Fédération des Associations coopératives
d'économie familiale

Mr. Léonard Roy
Montreal
Quebec Food Council

Mr. Jacques Towner
Quebec City
Conseil de la Coopérative du Québec
Fédération des magasins Co-op (IPIC)

Mrs. Joseph Caron, Mr. Raymond Girardin and Mr. Charles Perreault were in office at the meeting held on September 19, 1972.

III - MEETINGS AND EXPENDITURE

There were 13 general assembly meetings and 25 committee meetings.

Date of General Assembly Meetings	No. of Members Present
September 19, 1972	10
November 16, 1972	13
November 17, 1972	13
December 5, 1972	12
January 9, 1973	14
February 20, 1973	11

March 13, 1973	13
April 10, 1973	11
April 11, 1973	10
May 30, 1973	12
June 1, 1973	12
June 12, 1973	10
July 10, 1973	13
August 28, 1973	13
September 7, 1973	11

With respect to payment for services rendered by members, article 87 of the Act reads as follows:

> "87. The members of the Council shall receive no salary as such; they may be indemnified for their expenses in attending meetings and receive an attendance allowance fixed by the Lieutenant-Governor in Council."

Expenses paid by the government for holding Council and committee meetings totalled $23,080 which includes the refunding of members' travelling and living expenses as well as an attendance allowance of $50.00 for every day of the Council or committee meetings.

IV - Its Tools

In its first annual report, the Council made the following recommendations.

> 31. "We hope an assistant will be appointed to the Secretary of our Council as soon as possible and that this assistant have a

university background in Human Sciences.

32. The Council should have proper premises and an adequate conference room.

33. The Council should be permitted to form committees.

35. The Council should appear in the budget estimates as a body having sufficient resources for the pursuit of its objectives.

34. The Council should have a budget allowing it to hire specialist consultants and researchers."

The first four recommendations have been maintained since Me Jean-Guy Larochelle now acts as assistant secretary; the Council now has proper accomodation and the right to form committees equipped to pursue its objectives, and estimates for the Council are included in the budget prepared by your department; however, the Council is unable to employ specialist advisors and research workers, but may consult those available from the department's Research Service.

PART II

THE COUNCIL'S WORK

I - REGULATIONS:

As we have already noticed, one of the Council's main activities is to advise you on matters pertaining to regulation drafts prepared under article 102 of the Act. Even though this activity has been considerably reduced since last year, five regulation drafts have still been discussed in detail and some of them have led to long and heated discussions.

A - ADVERTISING INTENDED FOR CHILDREN

The Council's first annual report contains the two following recommendations on advertising for children:

> "14. Regulations pertaining to advertising for children should be enacted as soon as possible.
>
> 15. Special attention shall be given to advertising where children are used as actors."

One of our members, Me Ronald Cohen,was ordered by you to prepare a first regulation draft and return it by September at the latest. This was done. Last year advertising intended for children was the subject of thorough discussion. In September the Council studied Me Cohen's draft,

seconded it and then recommended its adoption. We were consequently pleased to learn that the Lieutenant-Governor in Council, on your recommendation, had adopted the Order in Council 3268 of October 31, 1972.

The new regulation refers to all forms of advertising for children less than 13 years old. The following are a few basic principles: advertising shall not mislead children on the price and value or possibilities of the product offered; the advertising of products such as vitamins and medications shall be prohibited as well as the use of animated cartoons and the participation of personalities popular with children.

We believe that the adoption of such a regulation is the first positive step towards controlling advertising in general.

We congratulate you for this successful action because, in so doing, you have certainly created a precedent throughout North America.

B - BANKS AND PERSONS REFERRED TO IN SECTION 124 OF THE ACT

The persons referred to in Section 124 of the Act are agricultural cooperative unions, cooperative associations, savings and credit unions as well as cooperative unions; in short, all cooperative institutions created by Quebec laws.

Both the banks and these institutions were opposed to being included in the Act, but their reasons were completely different.

Both these groups had been totally exempted from the Act, first up to October 1, 1972, then up to January 1, 1973. After this date, special conditions were established for them.

Since all regulations are submitted to us before adoption, because they exempt certain categories of persons from the Act, you have asked our advice and we have recommended their adoption.

The Council had to study the question from two different aspects. On the one hand, the banks, arguing on constitutional motives, claimed they were not subject to provincial law on matters pertaining to their loan operations. On the other hand, persons referred to in section 124 of the Act argued that each of their constitutive laws specifies that they are not merchants. They were therefore unwilling to be subject to a law controlling relations between merchants and consumers.

The Council thought of reaching a possible agreement with the banks but is quite aware that it could be a long and difficult task to get them to observe all the requirements of the Act. With respect to persons referred to in section 124 of the Act, the Council considered that the legislator merely wanted to subject them to the Act, without establishing a comparison between them and merchants.

Finally, we recommended the adoption of the Order in Council 4004 of December 27, 1972 which contained the following special plan: with respect to mortgage loans,

banks and persons referred to in section 124 are subject to the Act; such banks or persons granting their own loans may conclude them according to their usual procedure without having to demand a signed contract in duplicate, but should clearly disclose the charge and credit rate, in the manner provided for other merchants, at the latest two days before the loan.

C - MORTGAGE LOANS

Article 10 of the Act reads as follows:

> "10. This section does not refer to contracts where the sum of money credited is less than fifty dollars. And it does not refer to contracts where credit given consumers for buying, constructing or improving a property is guaranteed by a privileged claim or a first mortgage."

The second paragraph of this article was strongly disputed by mortgage companies, lawyers and especially solicitors. They stressed the point that there were technical difficulties and it would even be sometimes impossible to observe strict compliance with the law. This is what led you to propose a new plan for this kind of contract. We approved your attitude by recommending the drawing up of the regulations you proposed.

D - Family and social allowance checks

Some merchants usually advertise that they cash

family or social allowance checks. It is our opinion that such a practice may strongly induce some consumers to incur unreasonable expenses.

Your colleague, the Minister of Social Affairs, and yourself are both of the opinion that this kind of advertising must be banned. We were therefore pleased to recommend the adoption of the last regulation draft you submitted to us for examination.

II - Committee work

Introduction

During the Council's first year of service its work was dedicated almost exclusively to enforcing the Act and particularly to the examination of regulation drafts to be submitted to the Lieutenant-Governor in Council before enforcement. The Council certainly studied several other problems but any such activity in a thorough complete form had to be postponed for a later date. However, it drew up a plan of action to be used as a guide for work completed during that year.

For the purpose of carrying out a profound study of the various questions presented in this plan of action, the Council formed the following committees in December 1972:

- The coordination committee;
- The Act and regulations committee;
- The automobile and driver's committee;

- The advertising, packaging and labelling committee and,
- The committee responsible for consumer information and education matters.

Committee activities

The coordination committee determined the mandate of each committee, fixed their timetable and supervised the general progress of the projects. The work done by the other committees is presented on the following pages after being revised, corrected and endorsed by the Council.

It should be remembered that the Council received the green light for committee work only since last January and none of its members are fulltime civil servants. They live all over the province and each one of them has to devote most of his time and energy to his regular job.

We are aware that we have not in the least exhausted the subjects we tackled. Your Council is not an organization responsible for carrying out evaluations and drafting laws or regulations. It is composed of fifteen members representing different sectors of social or economic activities. It may be asked to express its considered opinion of the facts on matters of a high technical nature. We believe that what it can and must be expected to do is to become the spokesman of all Quebecers by expressing advice and opinions based on common sense. The recommendations appearing in this report are considered by us to be valid. We therefore ask you to enforce them in your own department or refer them to your colleagues of the cabinet and insist that they deal with them.

A - The automobile and its driver

In June 1972 you submitted to the Council a voluminous report which had been prepared on your request by Mr. Philip Edmonston, president of the Automobile Protection Association.

A special committee was formed by the Council to study this document and its report was discussed at plenary sessions in the presence and with the collaboration of civil servants from the Departments of Transport and Justice.

Finally, the Council sent you the following recommendations:

1. The Minister of Transport should take the necessary steps to provide the public with good information on the main provisions of Order in Council 3128-72 adopted by the Cabinet October 25, 1972, published in the Official Gazette of November 18, 1972, and intended to establish a demerit points system.

2. The Ministers of Justice and Transport as well as the various municipalities of this province should combine their efforts with a view to achieving better application of this new points system, as well as the articles of the Criminal Code pertaining to the driving of motor vehicles and the Highway Code in general.

3. Since many accidents are caused by motor vehicles in poor condition, the government of this province should, without any delay:

(a) demand compulsory annual inspection of all motor vehicles registered in this province;
(b) demand immediate repair of unsafe motor vehicles using the public roads of this province;
(c) demand that all dangerous motor vehicles be taken off the road until satisfactorily repaired.

4. The annual compulsory inspections we recommend should be done in government-owned buildings.

5. Where such inspections cannot be carried out by the government in its own garages, there should be a standard service charge that the garage proprietor could claim.

6. Because of an important number of complaints lodged by the Consumer Protection Bureau on motor vehicle repair, the government should:

(a) establish proficiency tests for mechanics and other employees performing such work;
(b) make it compulsory for all dealers performing such work to secure permits;
(c) order the suspension of such a permit, either temporarily or permanently, where its holder gives proof of incompetence or uses illegal practices.

7. With a view to thwarting all illegal practices the government should regulate the contents and form of contracts pertaining to motor vehicle repair as well as the assessments made out before repairs. These regulations should also include the following provisions:

(a) the obligation to prepare a written detailed estimate of repairs and their cost, except in the case of minor repairs;

(b) repairs not appearing in the estimate could not be done, except in the case of an additional estimate;

(c) the estimate should indicate whether repairs must be done with new or used parts;

(d) repair costs should not exceed a certain percentage of the costs indicated in the estimate;

(e) parts replaced should be returned to the customer;

(f) there should be appropriate penalties of a civil and penal nature.

8. The government should prohibit the practice of car manufacturers and car dealers to change the year in which their cars were manufactured.

9. The general regulation adopted under the Consumer Protection Act should make it compulsory for used-car dealers to indicate their qualifications as used-car dealers when advertising, as well as their permit number.

10. Well aware of the experiments carried out particularly in the United States and Australia to demonstrate that the use of safety belts helps to reduce the number of deaths and serious injury caused during traffic accidents, the government should make the use of safety belts compulsory for all persons travelling in motor vehicles on the public roads of the province.

On the other hand, because of the lack of sufficient scientific proof, the Council cannot endorse the proposal recommending that section 236 of the Criminal Code be amended by reducing from 80 to 50 the number of milligrams of alcohol per 100 millilitres of blood required to bring a verdict of guilty against anyone driving or being in charge of a motor vehicle.

B - Consumer information and education

1. Purpose in view

The following recommendations contained in the Council's first annual report have been the point of departure for our research as far as consumer information and education are concerned:

> "8. The Department of Financial Institutions, Companies and Cooperatives should, in the light of experience, assess the value of advertising methods used to publicize the Act and its regulations.
>
> 9. The Department of Financial Institutions, Companies and Cooperatives should attempt, in collaboration with intermediary bodies and public organizations, to reach the public more efficiently.
>
> 10. This department should use all channels (press conferences, information bulletins, radio and television programs, etc.) to increase the free advertising offered by the information media.

11. It should also considerably increase the advertising budget of the Bureau.

12. A joint information and advertising program should be set up by the Department of Financial Institutions, Companies and Cooperatives, in close collaboration with advertising agencies and information media, especially television. "

We suggest a number of methods likely to enable consumers to make a judicious choice of products offered them. We are aware that each of the points raised and each of the recommendations made could be the subject of more profound research.

2. General Comments

The Council apparently finds it important to analyze and specify its fundamental concepts before preparing a program and its practical methods. What does the consumer represent? What is understood by information, advertising and education? What are the Council's options?

(a) Describing the typical consumer

Descriptions may vary considerably according to the groups responsible for consumer education and protection. There are three main views:

- The consumer is seen as a defenceless being exposed to a system and conditions surpassing him, and which will always continue to do so, no matter what his efforts are; he must therefore be protected against all possible illegal practices by a very specific law whose application is subject to strict control.

- The consumer is seen as an independent adult likely to make rational choices in keeping with his resources and needs, provided the information is objective; extensive well-prepared information would solve his problems.

- The consumer is seen as an ordinary citizen with legitimate needs and unlimited aspirations and having to make the best use of a limited income; one of his problems lies first of all in the constant choice he must make of the many goods and varied services and publicized by subtle techniques; he must therefore be trained to live in a new type of society called "consumer's society" or "affluent society"; another problem lies in possible abuse against which he must be protected by an adequate law whose application is subject to control, and he must also be informed of his rights and privileges by private and governmental organizations.

It is this last view that we consider to be the most valid.

(b) Information, advertising and public relations

In this case the question is objective information,

in other words, information and precise data on laws, products and services available to the consumer.

(c) Education

Educating the consumer on consumption might be defined as the acquiring, on the part of the consumer, of rational managerial reflexes in conducting his own affairs, as well as learning to make independent choices according to needs and values in a society where people are wont to believe that, in order to be happy, one must acquire everything, and immediately.

(d) Council's Options

The Province of Québec has its own Consumer Protection Act. In our opinion, abusive practices are only part of the problem and the entire Act will be insufficient if the consumer himself is not aware of its existence or does not decide to use it.

Protecting the consumer against all possible illegal practices, both his own and the merchants, would entail a host of investigating officials, and in actual fact, would turn out to be a police affair... a situation which nobody wants.

Information, advertising and public relations are apparently indispensible for maintaining good balance of varied and extensive media-diffused information and

also for providing the consumer with easier means of representation under the Act.

The Council considers that education is also essential and provides the best protection possible because it enables the individual to inform himself and judge suitable needs and services, and in addition to react against situations and to be on his guard against many abuses.

It makes him equally suited to considering his own responsibilities and duties and not merely his rights.

In short, the Act exists and it protects the consumer within certain reasonable limits. The only thing left to do now is to make the consumer aware of his rights and responsibilities, and provide him with objective information but especially, motivate him, in other words educate him, for without this, the rest is useless.

3. Clientele

It is our opinion that information, advertising and education have been too exclusively directed towards the consumer himself. It is most certainly the consumer who has to be protected; on the other hand, other parties are to be taken into consideration, and if they are ignorant and ill-informed, consumer protection loses a lot of its effect.

(a) The consumer

Since he is the first interested party, the consumer must be informed and educated. Such an operation is now in progress. It must be continued and intensified and new techniques found to make it more effective. In spite of what has already been done, there are still too many consumers unfamiliar with the Act's operations.

A special effort should be made to reach consumers in underprivileged areas, and this should be done, for example, by education programs in the schools of such areas or by building material suitable for such areas.

(b) The merchant

As far as we know, there is not much information explicit enough and directly pertaining to the merchant. He was advised that the Act existed and that he should conform. But this was usually done by a "legal document" or by copies of extracts from the Act. We do not believe that these are preferential instruments of information and education. This fact can easily be verified when we observe that several merchants accept and conform to the Act with great reluctance, not that they reject it but because it appears to them to be one-sided.

We admit that in various circumstances consumers are unprotected before the merchant. We believe that some small merchants are just as unprotected before the Act. What purpose does it serve if we talk of informing and educating the merchant when the question is consumer

protection? We believe that if the merchant does not know or understand the Act, it is the consumer who is finally victimized.

(c) The organizer (group leaders)

The clientele to reach is wide-spread, it is the Quebec society. Some means of dissemination may reach this mass. On the other hand, several organizations are already involved in consumer protection. Every one of these organizations uses "group leaders" whose task it is to produce documentation, organize lectures, preside over meetings, and so forth. As far as we know, this group of communicators may rely only on the same means as those available to the consumer himself. It should have something more; it is somewhat a question of making available to these groups material which will be used for "training trainers".

Recommendations

(a) The Department of Financial Institutions should establish a research program with the Department of Education emphasizing the education of the individual at all school levels and especially at elementary level with a view to producing informed consumers.

(b) The Department of Education should establish an education program specially conceived for consumers in underprivileged areas.

(c) An information, advertising, public relations and education campaign should be prepared for the merchants. There will

be need for material which is new, popularized and specifically intended for the merchant.

(d) The Bureau should supply group leaders with the material and means to enable them in turn to inform and educate the consumer. Such material, a kind of "teacher's manual", might even suggest:

1. methodology

2. priorities, etc.

4. Coordination

(a) Necessity for an inventory

The consumer protection idea is really "in". Everybody is talking about it. Several organizations are working on it, but does the "finished product" correspond to the energies and sums of money spent by the various organizations?

In other words, the protection which the consumer receives is the final good of all these efforts, but can it be compared to the individual efforts of organizations? We do not believe this is so.

We rather believe that organizations setting themselves the task of working in this field draw up a certain sphere of action and, to the best of their knowledge, devote their energies and funds in one given direction. They have no systematic way of knowing if the job they are doing duplicates that of another organization and even if they are heading in the right direction.

For the purpose of ensuring future coordination, we believe that there might be good reason to take stock of everything in this field.

(b) Unity of thought

In addition to indicating the quantity and quality of the material and existing resources, such an inventory would help to find out if all the organizations involved in consumer protection have the same concept of the work to be completed. We are convinced the opposite is true.

What is real consumer protection? Where is the Act in all this? Is the consumer aware of his duties to the same extent he is jealous of his rights? Must the consumer be "overprotected" by taking for granted that he is and will always be on the outside? Is such an option acceptable? The Council has already indicated on page 19 of this report the description of the typical consumer it considers to be the most valid.

(c) Plan of action

Now that the inventory has been prepared and the field of work defined, a method must be found to keep this inventory up to date so that, as a result, the organizations implicated will continue working in the same direction. We believe that coordination might also suggest specific subjects for any given compaign. For example, the department might suggest to all those concerned that for a determined period of time information, advertising,

public relations and education be devoted to food research.

Recommendation

Your department should organize and finance a consumer protection conference at which consumer protection organizations would be invited.

5. The Bureau's annual report

We wish to mention that some work has already been done by the Consumer Protection Bureau.

A profound analysis of chapter II, section 3 (Information and advertising) of the Bureau's annual report has helped us to observe the Bureau's many information and advertising activities.

Moreover, other sections of this report indicate that the Act has not yet been understood or accepted by all consumers.

(a) For example: 80% of the complaints received were not related to this Act (Bureau's Annual Report). If this statistic is interesting because it may indicate which new fields of activity should be covered by the Act, it is no less disturbing as far as understanding this Act is concerned.

(b) The very important number of telephone calls received most certainly indicates the interest shown by the consumer as well as the need existing in this field. It may also indicate a certain confusion and lack of understanding of the Act.

We wish to emphasize that throughout the Bureau's many activities pertaining to education, information, advertising and public relations, we find it difficult to pick out an overall plan, for example an annual program.

Recommendations

a. With respect to the Bureau's information, advertising and public relations, we think it of the utmost importance that a thorough research program should be entrusted to specialist teams: public relations counsellors and advertising counsellors.

b. Where such specialists are not available within the government, it would be wise to solicit outside services.

6. Conclusion

Information, advertising, public relations and education are four complex and difficult activities to evaluate.

However, in the context of the present Québec society, it is a necessity.

We are aware that the preceding recommendations do not provide all the techniques and possibilities for achieving all the objectives.

C. Advertising

1. Preamble

The Council had formed a committee whose task it was to study problems relating to advertising, packaging and labelling. Lack of time forced this committee to drop the last two parts of this triptych to concentrate on advertising, a vast subject indeed.

Everybody is aware of the importance of the role which advertising plays in the consumer's conditioning and behavior. It is a daily phenomenon which, for better or for worse, fashions the psychological disposition of citizens.

It is also a known fact that advertising is an integral part of our economic and political system and that it is a powerful instrument for motivating a consumer society.

In more precise terms, commercial advertising which has been the subject of our research is one of the elements in the commercialization of goods and services, based on both art and persuasion techniques. We believe that the essential task of commercial advertising is to provide the consumer with genuine and useful information on the goods and services proposed: advertise for the sake of true value.

Taking into consideration the influence of this economic force on ordinary goods, the impact of

persuasion techniques on individual and social behavior, and the considerable responsibilities of those using this commercialization instrument, it is merely healthy and normal that laws and regulations ensure order and fairness in this field.

Such laws and regulations are practically non-existant in this country. When an attempt is made in the various provinces to find legal texts containing advertising regulations, one has to admit that there is very little available. In the Province of Québec, except for a few regulations from the Department of Agriculture and some other professional corporations, it is in the Consumer Protection Act that one finds a few provisions giving the right to intervene on advertising matters, for example, by the preparation and promulgation of an Advertising Code.

We believe that such a Code must define minimum standards for ensuring honest practices to which advertising must conform, and that it should cover all forms of advertising, no matter what the medium used may be.

The Council has undertaken to study a large number of documents with a view to submitting to you standards and general rules that should be included in an advertising code in keeping with the following line of thought described in its first annual report.

" The powers granted under paragraph (o) of Section 102 of the Act seem very broad and we believe that in carrying them out the Government can regulate advertising in a realistic and objective manner. However, this is highly technical and very complicated. It is unthinkable

that a regulation establishing advertising standards can be written and adopted overnight. We strongly recommend that the Department tackle this question without delay. First, the basic documentation must be gathered and the legislation of the other provinces and countries consulted. Meetings must be set up with the advertising agencies, the media and the Canadian Radio-Television Commission. In this regard, the Department should retain the services of publicists. We hope that once this is done, a draft regulation can be presented to us as soon as possible, even though we realize that this may take some time. "

Our suggestions are intended to protect the "average consumer", the one described by us as an ordinary citizen and independent adult likely to make rational selections in keeping with his resources and needs, provided the information is objective. In order to make such choices, the consumer must be educated, awakened and, from the beginning, made more aware of his rights and responsibilities.

Finally, good education on consumption matters is the most important protection factor there is, since it enables the consumer to make his own inquiries and judge the goods and services offered, to react against conditioning and protect himself against abusive practices. This form of instruction should be started from the early school years.

The consumer should have the right to make an independent choice of the goods and services proposed. This is a free choice which is always exposed to the dangerous ambiance of a consumer society. We must see that it is protected. Such protection must be guaranteed by adequate laws subject to strict enforcement.

The following are the fundamental rules and regulations which the Council retained in its report and which should be included in an advertising code.

2. General standards for use as guidelines in preparing an advertising code

(a) General principles

1. Advertising concerns all of us; consequently, the producer, the distributor, the advertising agent and the media are socially responsible to the consumer.

2. Above all, advertising shall provide the average consumer with objective information so that he can make a free and lucid choice.

3. Advertising shall be honest and truthful, and conform to all other existing laws.

4. Any discrimination based on race, sex, colour of skin, religion or language shall be prohibited.

5. Advertising shall scrupulously respect the letter and spirit of the language used by the milieu concerned.

6. Advertising shall go beyond the stage of acquiring the product and take into consideration human values and better living.

7. Advertising shall be respectful of human dignity.

(b) General rules for controlling advertising as a whole

- Truth -

1. Advertising shall be clearly identified as such.

2. Any dishonest, false, misleading or deceptive advertising shall be corrected by the advertiser or sponsor in the same media and under the same conditions used for the original advertisement.

3. No information media may knowingly publish an advertisement not conforming to these rules.

4. The sponsor or advertiser shall be able to prove the truth of any statement of facts contained in his advertisements.

5. On the terms stated in his advertisements, the merchants shall make available all goods advertised therein, or otherwise, shall offer goods of superior or equal value, unless clearly indicated that such goods are available only in limited and specified quantities.

6. Playing with price differences to deceive and mislead shall be prohibited.

- Unwarranted influences -

7. Advertising shall not abuse the consumer's confidence, nor exploit his inexperience or ignorance.

8. Advertising shall not be used to give false hopes of cure, improvement or relief to those persons suffering from mental or physical sicknesses, nor shall it be supported by superstitious beliefs.

- Safety -

9. Advertising shall not be used to represent persons acting imprudently.

10. Advertising shall not represent goods in such a way as to suggest they could be used improperly or dangerously.

- Evidence and statements -

11. It is prohibited to use false, exaggerated, tendentious or anonymous evidence or statements.

12. No advertisement intended for the public at large shall be injustifiably based on facts that are scientific or presumably so, and the use of words or expressions of a scientific or technical nature should be avoided, if there is no valid motive attached.

13. Advertising shall not contain statements or photographs of identifiable persons without their permission.

14. Statements made by famous persons are legitimate provided the interest they relate to the product depends on its merits, their remarks are based on personal experience and come under their field of competence.

- Competition -

15. Advertising shall not depreciate competitors' products or services.

- Games -

16. When the advertiser or sponsor, keeping within the present scope of our laws, organizes a competition, lottery or game, the following requirements shall be observed:

(a) the number of prizes, their worth and the chances of winning shall be made public throughout the area to which the prizes have been allocated;

(b) the date of the drawing shall be made public;

(c) the competion shall close on that date;

(d) the distribution of prizes shall not be unduly delayed;

(e) the results of the competition shall be published within a reasonable period of time and in newspapers having the largest circulation in the areas concerned;

(f) the distribution of prizes shall be determined by the drawing of lots.

c. Sectoral Provisions

Sectoral provisions are not sufficiently developed and so we are unable to analyse them in detail. We need only to mention that the preparation of an advertising code should first of all include the existing regulations on credit charge advertising, advertising intended for children, as well as advertising pertaining to social allowance and family allowance beneficiaries. It should also contain special regulations in the following areas: food, alcohol, tobacco, medication and drugs, cosmetics and beauty treatments, automobiles, carpets, organized trips as well as premiums, stamps and gifts.

We recommend that your department study these areas in cooperation with other interested departments.

D. The Act and its regulations

1 - Aim in view

The Council reviewed the Act and its various regulations adopted under its control in the following perspective:

- Examine how the Act is observed in commercial transactions, and how it is applied by the Bureau;

- Try to detect legal or practical gaps;

- Make recommendations to correct them;

- Tackle subjects not presently covered by the Act but which, because they present serious difficulties for the consumer, should be incorporated.

2 - Problems studied

The following are the problems studied and the solutions recommended.

(a) Assorted credit contracts

Problem-situation

- in view of the great complexity of section IV of the general credit charge regulation, computing credit charge rates and costs proves to be so complicated that many merchants, especially the small ones, dare not give credit fearing they may not comply with the Act's requirements and may be subsequent victims of its penalties.

Recommendations

- Your department should:

(a) completely revise section IV of the general regulations, for the purpose of making it more comprehensible and applicable to both merchants and consumers;

(b) examine the possibility of establishing simple computing tables for credit rates and charges and making them available, either free of cost or at a modest price, to merchants and consumers requesting them;

(c) section 13 of the Act should be amended to allow the last deferred payment to be slightly higher than the others.

(b) Pyramid sales

Definition

- pyramid sales are generally characterized by:
  - uncontrolled increase of sale levels;
  - purchase of rights to create other sale levels;
  - lack of precise areas granted vendors.

Problem-situation

(a) Section 75 of the Act is improperly placed in Division VII entitled "Execution of the Contract".

(b) The text itself is contradictory; for example, the word "Contract" may be found on four different occasions with no precise reference made to its type.

(c) Legal procedures are very slow.

(d) It does not appear that companies indulging in this kind of activity have been prosecuted.

(e) At least no report has been made to us of any conviction based on section 75.

(f) The fines imposed are clearly insufficient.

Recommendations

With respect to section 75, we make the following recommendations:

(a) this section should be removed from division VII entitled "Execution of the Contract";

(b) a new division should be created;

(c) interpretation problems presently encountered should be eliminated;

(d) this division should not be limited, when applied, to contracts as defined in section I of the Act;

(e) the expression " Consumer Contract " or any other similar term should be adopted when reference is made to a contract under the Act and the word "Contract" should be used when referring to all other forms of contracts coming simply and solely under the Civil Code;

(f) the trend of records and law-suits should be supervised;

(g) proceedings should be speeded up in order that decisions might be obtained as soon as possible;

(h) companies should be prosecuted when individuals working for them are prosecuted under the terms of section 75;

(i) the minimum sums of one hundred dollars and five hundred dollars referred to in sections 110 and 111 of the Act should be raised to a thousand dollars and five thousand dollars, at least as far as companies operating these systems and their main promoters are concerned.

(c) Itinerant vendors

Problem-situation

Legal advice we received is contradictory on matters pertaining to vendors operating in hotel or motel rooms during a brief period of time. No accurate facts can be obtained as to whether or not they are itinerant vendors.

Recommendation

- dealers operating in hotel or motel rooms should be considered itinerant vendors unless they have signed a lease for at least a year.

(d) Offences and penalties

Problem-situation

(a) fines and prison terms for recidivists are clearly insufficient;

(b) only the Attorney General may prosecute, even though we would like to see any citizen or group of citizens enforcing the Act where it particularly interests them.

Recommendations

(a) with respect to sections 110 and 111, there should be higher minimum fines and prison terms for recidivists.

(b) the first paragraph in section 114 should be amended as follows, so as to include section 5 of the Penal Actions:

"114. Proceedings under this act shall be instituted either by the Attorney-General or any other person or association in accordance with the provisions of the Penal Actions Act."

(c) the beginning of section 116 should be changed as follows:

"116. If a person is guilty of several offences against this Act or the regulation..."

(e) Cash sales

Problem-situation

Cash sales do not benefit from the protection provided for credit sales, particularly with respect to safety standards, warranty, quality and the recourse provided under section 118.

Recommendation

It is of capital importance that in the Act the same protection granted for credit sales be provided for

cash sales, mutatis mutandis, on every possible occasion and especially with respect to safety standards, warranty, quality and the recourse referred to under section 118.

(f) Credit cards

Problem-situation

Section 23 contains regulations on the issuing of credit cards to consumers but what we wish to control is the actual receiving of these cards. Yet, companies cannot control the situation where credit cards issued a few years ago have been requested or used by consumers.

Recommendations

(a) On the subject of issuing credit cards, section 23 should be amended as follows:

"23. No credit card which has not been requested in writing may be sent to a consumer in Quebec. However, this prohibition does not apply to the renewing or replacing, under the same terms, of credit cards issued before the coming into force of this Act, or outside the Province of Quebec. "

(b) Credit cards delivered against the provisions of section 23 as amended should not permit any civil recourse on the part of the person issuing them.

(c) In the event of an invoice error on the part of the company, the benificiary should notify the company within 60 days and the company should reply within 90 days following reception of the

notice.

(g) Permits

Problem-situation

Many of the merchants required to be permit-holders under the provisions of section 89 do not yet have their permits.

Recommendations

(a) Merchants not complying with section 89 should have no legal claim on co-contracting consumers.

(b) The Bureau should take the necessary steps to ensure that every person compelled to have a permit does so.

(h) Automobile

Problem-situation

About 40% of the complaints received by the Bureau are about automobiles. We have no data likely to help us make an accurate analysis of the nature of these complaints. What do they discuss? Automobile costs, warranty, after-sales service, production defects, bad repairs or unduly high bills? We have no idea.

Recommendations

(a) In view of the importance of the question, we

made the following priority recommendation:

- that the Department of Financial Institutions, Companies and Cooperatives study in great detail all the problems concerning the buying, use and repairing of motor vehicles, especially used ones.

(b) We also make the following recommendation:

- a whole Division of the Act should be devoted to all problems relating to automobiles, used or new, by specially examining the following aspects:

  In the case of new automobiles:

  1. quality of fabrication;

  2. service before and after delivery;

  3. correct year of model;

  4. nature and scope of warranty;

  5. parties responsible for warranty.

  In the case of used automobiles:

  The same problems exist, but are even more acute; the same recommendations are valid, but we add the following:

1. any used car dealer must have a permit;

2. offenders must be prosecuted without delay;

3. the used car dealer must inform consumers of

   (a) his "competence" as a used car dealer as well as his permit number and nothing more;

   (b) the name of the automobile's last owner;

   (c) the number registered on the meter when the vehicle was purchased by the dealer;

   (d) the correct year of the model and its first registration.

With respect to all new or used automobiles we make the following recommendations:

1. going back to recommendation No.20 of the Council's first report, the Department of Transport should establish log-books for automobiles; such log-books may be simple and contain only information which is essential for each automobile;

I. Information Agents

Problem-Situation

You have already recognized the need for protecting the private lives of citizens with the passage of Division IV of the Act. That was a first step. In our opinion, we must go further. Consequently, we recommend the following.

Recommendations

a. A permit must be held.

b. No person may make an inquiry regarding an individual without previously informing him to this effect.

c. The contents of reports must be regulated.

d. Information prejudicial to an individual and dating back more than five years must not be divulged.

e. The person concerned must have access to his entire file and be able to obtain a complete copy.

f. In case of a coded report the person concerned can obtain an integral translation.

g. This report must not contain information from a person sworn to professional secrecy without the express consent of the individual concerned.

h. A person having received such confidential information with the consent of the individual involved must himself be bound by professional secrecy.

i. The consumer must have the right to correct his file and include his comments in it.

Problem-Situation

At present the Act contains a few sections concerning warranties, but they only apply when the contract involves credit or was signed by an itinerant vendor. We feel this is inadequate.

Recommendations

a. The question of warranties should be re-examined in depth.

b. The protection of the Act should be extended to all contracts between a consumer and a merchant, whether or not credit is involved.

c. Warranties should specifically indicate in unequivocal terms the duration of the protection provided, the names of the parts covered, the obligations which the consumer must meet in order to benefit from the advantages offered by the warranties, the names of the persons or companies to be consulted to ensure the respect of the warranties, the names of the manufacturers, their addresses and also their phone numbers.

d. A statutory warranty of at least thirty days should be imposed on all sales of durable goods, even used goods, except in cases where the sales price clearly indicates that such a warranty cannot reasonably be required.

e. The Ontario bill on this subject should be closely studied.

K. Class Action

Problem-Situation

Several consumers are sometimes defrauded for relatively minor sums, and no one wishes to start proceedings because of the small amount he could legally claim. Because of the numerous victims, if a few of them could act on behalf of all, they could obtain justice by forcing the perpetrator of the fraud to reimburse each of the small amounts from which he derived illegal benefit.

In other cases, considerable sums are at stake, but it is so difficult to establish proof that the victims cannot assume the burden individually.

In both cases, if it were easier for consumers to band together or if the Bureau or a consumers' association, or even an individual, could seek redress on behalf of all, much injustice could be corrected.

Recommendations

a. The right of the Director of the Bureau to take legal action on behalf of consumers of consumers' associations should be introduced into the Act.

b. The possibility should be examined of granting the Bureau rights equivalent to those of the Minimum Wage Commission or parity committees which can take legal action on behalf of wage earners.

c. Various solutions should be sought, such as injunctions or the cancellation of contracts, for cases of infractions against the Act.

L. Magazine Subscription Contracts

Problem-Situation

The Center for Public Interest Law has sent us the results of a survey it carried out in the area of magazine subscriptions. The survey revealed a number of abuses committed by agencies specialized in this type of activity.

Recommendations

a. These agencies should be closely supervised.

b. They should be made to respect the Act completely.

c. Agency permits should be cancelled when the law is transgressed.

M. Subscription Contracts for Books, Records or Tapes

Problem-Situation

The problems of consumers with regard to book, record or tape subscriptions are identical to those with regard to magazine subscriptions.

Recommendations

a. The subscription contract for books, records or tapes should afford the same general protection as a magazine subscription contract.

b. Special attention should be paid to the study of the "obligations" in this type of contract.

N. Goods Sent without Having Been Requested

Problem-Situation

Many consumers receive goods they never ordered. They are sometimes happy and pay for them without complaining, but more often the unwanted goods must be returned at their expense - an annoying situation.

Recommendation

If an item has been sent to a consumer who did not order it, he should not be obliged to pay for it, or return it, but the merchant should have the right to take it back within a reasonable delay and in the condition he finds it.

O. Repairmen

Problem-Situation

Modern society increasingly depends on those who specialize in providing services. These people are usually technicians specialized in fields which are entirely unknown to the average consumer. In the area of repairs, for example, consumers are at the mercy of repairmen. Home and appliance repairs are the source of many complaints.

Recommendations

a. The repair of goods should be covered by a statutory warranty for a suitable trial period.

b. In case of another defect of the part or parts repaired, the costs of returning the item for another repair should be at the expense of the repairman.

c. The Bureau should have the right to check the price charged for repairs.

P. Debt Collection Agencies

Problem-Situation

Certain debt collection agencies use unacceptable tactics, not hesitating to use blackmail, false promises, harassement or pressure of any kind to collect the debts entrusted to them.

Recommendations

a. Such agencies should be obliged to obtain a permit.

b. The Collecting Agents Act should be completely revised to deal with present abuses.

c. A substantial security scale should be established to indemnify consumers victimized by dishonest agents.

d. All mechanisms which presently concern used automobile salesmen and itinerant vendors, such as permits, security, additional security, should apply, with the necessary adjustments, to such agencies.

e. In case of infraction against the provisions we are recommending, these agencies should not be able to obtain a new permit before the expiration of three years since their last infraction or prior to the complete compensation of all their victims.

Q. Lease with Option to Buy

Problem-Situation

It can be advantageous for a consumer to lease with option to buy if he is satisfied, but because of the present Act, large companies cannot or do not wish to do so.

Recommendation

The Act should be revised to make possible contracts of leases with option to buy.

R. General Regulation

Recommendation

With regard to regulations in general, all that constitutes legal rather than administrative rules should be transferred to the Act.

S. Previous Recommendations

Lastly, we would like to recall certain recommendations contained on our first report, that is, Nos. 2, 7, 17, 18, 19, 22, 23, 24, 25, 26, 27 and 29. They are reproduced at the end of the fifth part of this report.

III - Other Subjects Studied

The examination of draft regulations and particularly the adoption of committee reports probably constitute the most important work we carry out. They are not our only tasks. We would now like to summarize the more important other duties.

A. The Council

1. Council Representation

Our Secretary is invited to and attends federal-provincial conferences and interprovincial conferences concerning consumer protection, but we feel he should be accompanied by a member of the Council, preferably the President. A resolution to this effect was adopted November 16, 1972.

2. Meeting Place of the Council

To date all Council meetings have been held in

Quebec City, although certain committees have met in Montreal. Since the Council has had its own offices, it has certainly been easier to meet in the hall provided for this purpose. We believe, however, that the Council could profitably hold meetings in other cities.

B. Consumer Representation

A democratic society cannot exist without the active participation of consumers in the decisions which are of interest to them. The representation of consumers is the basis of such participation. It therefore seems necessary to us

1. that consumers be represented in the management of governmental or paragovernmental bodies in Québec when these bodies are involved in activities dealing with the consumer or service sector, and particularly,
   (a) councils or advisory committees,

   (b) boards, bureaus or other corporations,

   (c) paragovernmental corporations;

2. that representatives of consumer groups sit on the Québec Professions Board, the Québec Interprofessional Council and at the offices of each of the Québec professional corporations;

3. that the minister responsible for consumer protection, as well as the Québec Government, carry out the recommendations made above and take appropriate measures to establish and enforce this representation, either through the Bureau, or consumer associations subsidized by the Government, by appointing an attorney for consumers, by compelling large companies to pay in advance

for the preparation of argumentative briefs exposing consumer viewpoints, or otherwise.

C. A Department for Consumer Affairs

We wonder if it would not be appropriate to centralize as much as possible all laws concerning consumer protection in a single department. We feel that such a department should be identified by a name representing its functions.

D. Demerit Points

In our annual report last year we recommended that the Department of Transport set up a system of demerit points under which incompetent or negligent drivers would be subject to the loss of their licenses. We were happy to learn of the adoption of a regulation to this effect a few weeks after the appearance of our report.

E. Real Estate Activity

We have studied the Real Estate Activities Bill, which has been considerably altered since it was submitted to a parliamentary commission. Since it is intended to remedy numerous abuses the victims of which are consumers, we insist that this bill be again presented to the Legislature as soon as possible.

F. Financing of Mobile Homes

It has been reported to us that the financing of mobile homes causes problems for consumers in that certain dealers require the signature of contracts providing for payments deferred over twelve years while loan agencies refuse to lend for more than ten years. An

examination of this problem cannot rest solely on a few individual complaints. Since we lack basic data, we ask that you carry out a technical study of this problem and send us the results.

G. Obscene Newspapers and Magazines

We have approached the problem of newspapers and magazines which are more or less obscene in character and which appear on the stands of several restaurants and pharmacies. What is obscenity? What is pornography? Must they be banished or regulated? Would such measures not limit freedom of expression? These are some of the questions we refused to discuss. They have often been studied in Québec City and Ottawa, as well as in many other countries. What does concern us is the thoughtless display of certain magazines, making it possible for children and adolescents to skim through them at will. We ask that your colleague the Minister of Justice regulate the display of such magazines.

H. Teaching of Advertising in French-language Universities

The information gathered leads us to believe that the teaching of advertising is too often neglected in French-language universities in the Province. Consequently, we propose to collect available data to obtain a better idea of the question.

PART III

COOPERATION WITH OTHER BODIES

I - THE BUREAU

At the beginning of the year, we learned with pleasure that a permanent director had finally been appointed to the Bureau, Mrs. Niquette Delage, who is well-known to consumers. We had expressed our desire to see such a step taken in last year's annual report.

In that same report, we recommended that your department endeavor to find ways of increasing free publicity in order to reach the consumer more effectively. The official monthly Bulletin of the Consumer Protection Bureau is a step in the right direction and we have great faith in the effectiveness of this new source of information.

We would nevertheless like to make a few suggestions concerning the Bureau's offices and those of the Committee on Advertising Intended for Children.

A. The Bureau's offices

The Bureau has offices in Québec City and Montreal but these do not seem sufficient to meet public

demand. You too are aware of this and we were pleased to learn that you had requested and received appropriations for six new regional offices. We will not be completely satisfied until each administrative region has an office and Montreal, the metropolis, has several, particularly in its underprivileged areas. Should the Bureau not move towards the people who need it most? Could the Bureau's services not be increased by placing Bureau employees in the offices of the small claims courts, legal aid corporations and the Departments of Social Affairs or Communications, upon agreement with the ministers concerned, or by using the services of civil servants in these offices?

B. The Committee on Advertising Intended for Children

We are aware that since the adoption of the regulation on advertising intended for children, you have charged a committee with seeing that it is applied. We would appreciate more information on this committee, especially on the type of offences committed and the identity of the companies at fault.

II - THE DEPARTMENT OF MUNICIPAL AFFAIRS AND OF THE ENVIRONMENT

In its last report, the Council recommended that

"26. The commercial use of non-returnable bottles should be studied in collaboration with the Minister responsible for the environment, in the light of bills drawn up in other provinces."

The minister responsible for environmental problems is in the process of drawing up a regulation in virtue

of the Environment Quality Act. Having read the Council's first report, he has told us he would be interested in hearing our comments before having the regulation adopted. If we are so requested, we would certainly be pleased to examine the effect this regulation might have on consumer protection.

We would like the minister responsible for the quality of the environment to take the necessary steps to have the regulations provided for in the Environment Quality Act adopted as soon as possible.

III-THE DEPARTMENT OF COMMUNICATIONS

The Council appreciated the approachability and cooperation of the employees of the Department of Communications. When the Council's annual report came out, this department immediately offered the services and invaluable assistance of its specialists. These specialists will undoubtedly be of assistance to the Council in its work in the fields of publicity and information.

IV -THE DEPARTMENT OF SOCIAL AFFAIRS

We have already pointed out the relationship which has developed between your department and that of Social Affair where advertising as regards social benefits and family allowances is concerned. Moreover, we are delighted that the cooperation between the two departments has touched an area as important as the advertising of medication. We had actually begun studying a projected regulation on this subject but it was finally withdrawn for further examination.

It is definitely our intention to continue the study, but we first wish to discover the positions your colleague, the Minister of Social Affairs, plans to adopt for he is in fact responsible for this important area.

V -THE DEPARTMENT OF EDUCATION

A - The Private Education Advisory Commission

The Private Education Act provides for the creation of a Private Education Advisory Commission to advise the Minister on anything concerning private education and especially on the issue or renewal of permits.

The Department of Education invited the Council to name certain persons interested in consumer protection who could sit on the Commission. The Council responded with pleasure and one of its proposed candidates was appointed to the Commission.

B - The French Language Bureau

At a meeting with the representatives of the French Language Bureau, we were assured the use of their services. We believe that the Council and the French Language Bureau could work together,particularly to obtain a correct level of language in advertising.

VI -THE COLLEGE OF PHARMACISTS OF THE PROVINCE OF QUEBEC -

THE COLLEGE OF PHYSICIANS AND SURGEONS OF THE PROVINCE OF QUEBEC

Recommendation 22 of our first annual report read as follows:

"22. Bottles and other containers holding medecine should be made in such a way that children cannot open them. "

We wish to point out the joint gesture of the College of Pharmacists of the Province of Québec and the College of Physicians and Surgeons of the Province of Québec who have offered us their support and collaboration in this particular aspect of consumer protection. The two bodies actually prepared a press release inviting all their members to encourage the use of safety caps and labels to reduce the number of accidental poisonings.

VII - THE CANADIAN CONSUMER COUNCIL

On an invitation from the Canadian Consumer Council, the members of the Council attended a national conference on the independent professions and the consumer.

The conference was held in Québec on November 17, 1972. The main subjects discussed were the availability and accessibility of professional services, the qualifications required, the maintenance of standards within independent professions and the behavior of members within professional organizations.

VIII-THE QUEBEC INTERPROVINCIAL CONFERENCE

At the interprovincial conference on corporate and consumer affairs held in Québec on May 31 and June 1, 1973,

Mr. Alex MacDonald, the Solicitor General for British Columbia, Mr. Blair Seaborn, Assistant Deputy Minister of Consumer Affairs in Ottawa, Mrs. Arlene Hynd, Deputy Minister of Consumer Affairs in Saskatchewan and Mr. Darryl Bogdasavich, a Saskatchewan lawyer, attended one of the Council's meetings.

We also met the representatives of the Federal and Provincial Governments at a dinner given by our Prime Minister.

P A R T IV

P R O S P E C T S

The foregoing was a report on the Council's work in 1972/73. We would now like to look towards the future.

After two complete years of work, the Council, like any developing body, believes there is room for a reexamination of its operations and a succinct look at subjects which, in the eyes of the present members, have priority in the field of consumer protection.

During its first year, the Council devoted itself mainly to applying the Act. This year, it has completed a very large part of the program it drew up in its first annual report.

What will we do next year? An outline is given in the following paragraphs.

We first wish to return to the source and establish a more direct contact with the consumer and the retailer. We want to be able to discover with certitude the most pressing needs of the population in general and the particular needs of certain regions and certain classes. To do so, we plan, above all, to contact those consumers groups most representative of the various socio-economic classes. Their spokesmen could be heard before the Council or its

committees. We do intend to hear and listen to them. We are looking for fresh material so that we will be better able to help terminate a real consumer protection code.

The Council sees five priorities for study next year: problems concerning automobiles, advertising, informing and educating the consumer, essential goods and services and the revision of the Act.

1. The automobile

You formally referred this area of study to us; moreover, it is the subject of about 40 percent of the complaints received by the Bureau. What is the exact nature of of these complaints? What are the basic causes of the dissatisfaction expressed? How can this be remedied?

2. Advertising

A large part of this report is devoted to this subject, yet it is far from exhausted. You have asked us in particular to examine advertising dealing with credit cost, interest and the sale of carpets. In addition, there are all the other sectors mentioned in this report.

3. Informing and educating the consumer

This is perhaps the most important sector. There is such a profusion of goods and services offered, the only problem left the consumer is the choice, but what a problem! Choice can only be wise if he is properly educated very early and is kept informed. We would like to find the best means of making these conditions fact.

4. Essential goods and services

Housing, food, clothing, gas and electricity are essential goods and services for all the citizens of Québec. The Council realizes their importance and has the firm intention of broaching the study of these various fields especially as regards price and quality.

5. Revising the Act

The Act, voted in 1971, represented a very important step. It must be revised and corrected, however, if it is to be extended to new sectors. It is now being revised and we will be called upon to study the results.

Many other subjects deserve to be studied. The task is enormous and you can rely on our good will. But how can we bring such an ambitious program to a successful end?

This year, we were introduced to committee work. The experience was fruitful and we propose to continue this path and set up committees at the beginning of the new year.

PART V

RECOMMENDATIONS

Automobiles and drivers

1. The Minister of Transport should take the necessary steps to provide the public with good information on the main provisions of Order in Council 3128-72 adopted by the Cabinet October 25, 1972, published in the Official Gazette of November 18, 1972, and intended to establish a demerit points system.

2. The Ministers of Justice and Transport as well as the various municipalities of this province should combine their efforts with a view to achieving better application of this new points system, as well as the articles of the Criminal Code pertaining to the driving of motor vehicles and the Highway Code in general.

3. Since many accidents are caused by motor vehicles in poor condition, the government of this province should, without any delay:

(a) demand compulsory annual inspection of all motor vehicles registered in this province;

(b) demand immediate repair of unsafe motor vehicles using the public roads of this province;

(c) demand that all dangerous motor vehicles be taken off the road until satisfactorily repaired.

4. The annual compulsory inspe c tions we recommend should be done in government-owned buildings.

5. Where such inspections cannot be carried out by the government in its own garages, there should be a standard service charge that the garage proprietor could claim.

6. Because of an important number of complaints lodged by the Consumer Protection Bureau on motor vehicle repair, the government should:

(a) establish proficiency tests for mechanics and other employees performing such work;

(b) make it compulsory for all dealers performing such work to secure permits;

(c) order the suspension of such a permit, either temporarily or permanently, where its holder gives proof of incompetence or uses illegal practices.

7. With a view to thwarting all illegal practices the government should regulate the contents and form of contracts pertaining to motor vehicle repair as well as the assessments made out before repairs. These regulations should also include the following provisions:

   (a) the obligation to prepare a written detailed estimate of repairs and their costs, except in the case of minor repairs;

   (b) repairs not appearing in the estimate could not be done, except in the case of an additional estimate;

   (c) the estimate should indicate whether repairs must be done with new or used parts;

   (d) repair costs should not exceed a certain percentage of the costs indicated in the estimate;

   (e) parts replaced should be returned to the customer;

   (f) there should be appropriate penalties of a civil and penal nature.

8. The government should prohibit the practice of car manufacturers and car dealers to change the year in which their cars were manufactured.

9. The general regulation adopted under the Consumer

Protection Act should make it compulsory for used-car dealers to indicate their qualifications as used-car dealers when advertising, as well as their permit number.

10. Well aware of the experiments carried out particularly in the United States and Australia to demonstrate that the use of safety belts helps to reduce the number of deaths and serious injury caused during traffic accidents, the government should make the use of safety belts compulsory for all persons travelling in motor vehicles on the public roads of the province.

Information and education of consumers

11. The Department of Financial Institutions should establish a research program with the Department of Education emphasizing the education of the individual at all school levels and especially at elementary level with a view to producing informed consumers.

12. The Department of Financial Institutions should establish an education program especially conceived for consumers in underprivileged areas.

13. An information, advertising, public relations and education campaign should be prepared for the merchants. There will be need for material which is new, popularized and specifically intended for the merchant.

14. The Bureau should supply group leaders with the material and means to enable them in turn to inform and educate the consumer. Such material, a kind of "teacher's manual", might even suggest:

    (a) methodology

    (b) priorities, etc.

15. To ensure better coordination between organizations engaged in consumer affairs, taking stock of these organizations is advisable. A method must be found to keep this inventory up to date so that, as a result, the organizations implicated will continue working in the same direction. This coordination might also suggest specific subjects for any given campaign.

16. Your department should organize and finance a consumer protection conference at which consumer protection organizations would be invited.

17. With respect to the Bureau's information, advertising and public relations, we think it of the utmost importance that a thorough research program should be entrusted to specialist teams: public relations counsellors and advertising counsellors. Where such spe cialists are not available within the government, it would be wise to solicit outside services.

18. We recommend that an advertising code be adopted to include the general principles and general rules for controlling advertising as a whole, as outlined in this report.

19. This Code should first of all include the existing rules respecting advertising of credit charges, advertising intended for children and for recipients of social and family allowances. It should also provide special rules covering these fields: food, alcool, tobacco, drugs and medical supplies, cosmetics and beauty treatments, automobiles, carpets, organized trips as well as premiums, stamps and gifts.

20. We recommend that your Department study these fields in cooperation with other interested departments.

The Act and its regulations

21. Your Department should completely revise section IV of the General Regulation for the purpose of making it more comprehensible and applicable to both merchants and consumers.

22. Your Department should examine the possibility of establishing simple computing tables for credit rates and charges and making them available, either free of cost or at a modest price, to merchants and consumers requesting them.

23. Section 13 of the Act should be amended to allow the last deferred payment to be slightly higher than the others.

24. With respect to section 75, we make the following recommendations:

(a) this section should be removed from Division VII entitled "Execution of the Contract" ;

(b) a new Division should be created ;

(c) interpretion problems presently encountered should be eliminated ;

(d) this Division should not be limited, when applied, to contracts as defined in Section I of the Act ;

(e) the expression "Consumer Contract" or any other similar term should be adopted when reference is made to a contract under the Act and the word "Contract" should be used when referring to all other forms of contracts coming simply and solely under the Civil Code ;

(f) the trend of records and law-suits should be supervised ;

(g) proceedings should be speeded up in order that decisions might be obtained as soon as possible ;

(h) companies should be prosecuted when individuals working for them are prosecuted under the terms of section 75 ;

(i) the minimum sums of one hundred dollars and five hundred dollars referred to in sections 110 and 111 of the Act should be raised to a thousand dollars and five thousand dollars, at least as far as companies operating these systems and their main promoters are concerned.

25. We recommend that dealers operating in hotel or motel rooms should be considered itinerant vendors unless they have signed a lease for at least a year.

26. With respect to sections 110 and 111, there should be higher minimum fines and prison terms for recidivists.

27. The first paragraph in section 114 should be amended as follows, so as to include section 5 of the Penal Actions Act:

> "114. Proceedings under this act shall be instituted either by the Attorney-General or any other person or association in accordance with the provisions of the Penal Actions Act."

28. The beginning of section 116 should be changed

as follows:

> "116. If a person is guilty of several offences against this Act or the regulation ..."

29. It is of capital importance that in the Act the same protection granted for credit sales be provided for cash sales, mutatis mutandis, on every possible occasion and especially with respect to safety standards, warranty, quality and the recourse referred to under section 118.

30. On the subject of issuing credit cards, section 23 should be amended as follows:

> "23. No credit card which has not been requested in writing may be sent to a consumer in Quebec. However, this prohibition does not apply to the renewing or replacing, under the same terms, of credit cards issued before the coming into force of this Act, or outside the Province of Quebec."

31. Credit cards delivered against the provisions of section 23 as amended should not permit any civil recourse on the part of the person issuing them.

32. In the event of an invoice error on the part

of the company, the benificiary should notify the company within 60 days and the company should reply within 90 days following reception of the notice.

33. Merchants not complying with section 89 should have no legal claim on co-contracting consumers.

34. The Bureau should take the necessary steps to ensure that every person compelled to have a permit does so.

35. In view of the importance of questions pertaining to automobiles, we make this priority recommendation: that the Department of Financial Institutions, Companies and Cooperatives study in great detail all the problems concerning the buying, use and repairing of motor vehicles, especially used ones.

36. We recommend that a whole Division of the Act should be devoted to all problems relating to automobiles, used or new, by specially examining the following aspects:

In the case of new automobiles:

(a) quality of fabrication;

(b) service before and after delivery;

(c) correct year of model;

(d) nature and scope of warranty;

(e) parties responsible for warranty;

In the case of used automobiles the same problems exist but they are even more acute; the same recommendations are valid, but we add the following:

(a) any used car dealer must have a permit;

(b) offenders must be prosecuted without delay;

(c) the used car dealer must inform consumers of

1. his "competence" as a used car dealer as well as his permit number and nothing more;

2. the name of the automobile's last owner;

3. the number registered on the meter when the vehicle was purchased by the dealer;

4. the correct year of the model and its first registration.

With respect to all new or used automobiles we make the following recommendations:

(a) going back to recommendation No. 20 of the Council's first report, the Department of Transport should establish log-books for automobiles; such log-books may be simple and contain only information which is essential for each automobile;

(b) statutory warranties should be imposed for a pre-determined period and based upon the age or price of the automobile.

37. With respect to information agents, we recommend that:

(a) a permit be held;

(b) no person make an inquiry regarding an individual without previously informing him to this effect;

(c) the contents of reports be regulated;

(d) information prejudicial to an individual and dating back more than five years should not be divulged;

(e) the person concerned should have access to his entire file and be able to obtain a complete copy;

(f) in case of a coded report, the person concerned be able to obtain an integral translation;

(g) this report should not contain information from a person sworn to professional secrecy without the express consent of the individual concerned;

(h) a person having received such confidential information with the consent of the individual involved must himself be bound by professional secrecy;

(i) the consumer have the right to correct his file and include his comments in it.

38. The question of warranties should be re-examined in depth.

39. In matters of warranties, the protection of the Act should be extended to all contracts between a consumer and a merchant, whether or not credit is involved.

40. Warranties should specifically indicate in unequivocal terms the duration of the protection provided, the names of the parts covered, the obligations which the consumer must meet in order to benefit from the advantages offered by the warranties, the names of the persons or companies to be consulted to ensure the respect of the warranties, the names of the manufacturers, their addresses and also their phone numbers.

41. A statutory warranty of at least thirty days should be imposed on all sales of durable goods, except in cases where the sales price clearly indicates that such a warranty cannot reasonably be required.

42. The Ontario bill on this subject should be closely studied.

43. The right of the Director of the Bureau to take legal action on behalf of consumers and consumers' associations should be introduced into the Act.

44. The possibility should be examined of granting the Bureau rights equivalent to those of the Minimum Wage Commission or parity committees which can take legal action on behalf of wage earners.

45. Various solutions should be sought, such as injunctions or the cancellation of contracts, for cases of infractions against the Act.

46. Agencies specialized in the sale of magazine subscriptions should be closely supervised.

47. They should be made to respect the Act completely.

48. Agency permits should be cancelled when the law is transgressed or in cases of fraud.

49. The subscription contract for books, records or tapes should afford the same general protection as a magazine subscription contract.

50. Special attention should be paid to the study of the "compulsory provisions" in this type of contract.

51. If an item has been sent to a consumer who did not order it, he should not be obliged to pay for it, or return it, but the merchant should have the right to take it back within a reasonable delay and in the condition he finds it.

52. The repair of goods should be covered by a statutory warranty for a suitable trial period.

53. In case of another defect of the part or parts repaired, the costs of returning the item for another repair should be at the expense of the repairman.

54. The Bureau should have the right to check the price charged for repairs.

55. Debt collection agencies should be obliged to obtain a permit.

56. The Collecting Agents Act should be completely revised to deal with present abuses.

57. A substantial security scale should be established to indemnify consumers victimized by dishonest agents.

58. All mechanisms which presently concern used automobile salesmen and itinerant vendors, such as permits, security, additional security, should apply, with the necessary adjustments, to such agencies.

59. In case of infraction against the provisions we are recommending, these agencies should not be able to obtain a new permit before the expiration of three years since their last infraction or prior to the complete compensation of all their victims.

60. The Act should be revised to make possible contracts of leases with option to buy.

61. Everything which, in the General Regulation, constitutes legal rather than administrative rules should be transferred to the Act.

MISCELLANEOUS

62. A member of the Council, preferably the President, should be invited to attend federal-provincial and interprovincial conferences concerning consumer protection.

63. The Council could profitably hold meetings elsewhere than in Québec City.

64. A democratic society cannot exist without the

active participation of consumers in the decisions which are of interest to them; therefore, we recommend:

(a) that consumers be represented in the management of governmental or paragovernmental bodies in Québec when these bodies are involved in activities dealing with the consumer or service sector, and particularly:

1. councils or advisory committees;

2. boards, bureaus or other corporations;

3. paragovernmental corporations;

(b) that representatives of consumer groups sit on the Québec Professions Board, the Québec Interprofessional Council and at the offices of each of the Québec professional corporations;

(c) that the minister responsible for consumer protection, as well as the Québec Government, carry out the recommendations made above and take appropriate measures to establish and enforce this representation, either through the Bureau, or consumer associations subsidized by the Government, by appointing an attorney for consumers, by compelling large companies to pay in advance for the preparation of argumentative briefs exposing consumer viewpoints, or otherwise.

65. We request that an exhaustive investigation be made on the practices of companies selling magazine subscriptions.

66. The bill governing Real Estate Activities should be again presented to the Legislature as soon as possible.

67. We ask that a technical study of the financing of mobile homes be made and the results sent to us.

68. The Minister of Justice should regulate the display of obscene newspapers and magazines.

69. The Bureau should have offices in every administrative region and Montreal should have several particularly in its underprivileged areas.

70. The Bureau's services should be increased either by placing Bureau employees in the offices of the small claims courts, legal aid corporations and the departments of Social Affairs or Communications, upon agreement with the ministers concerned or by using the services of civil servants in these offices.

71. The Council should receive more information on the Committee on Advertising Intended for Children, especially on the type of offences committed and the identity of the companies at fault.

72. We would like the minister responsible for the quality of the environment to take the necessary steps to have the regulations provided for in the Environment Quality Act adopted as soon as possible.

73. The Minister of Social Affairs should inform us of his views on advertising of medication.

Lastly, we will repeat here some recommendations proposed in our first annual report:

2. The Act should contain a complete division on trust companies.

7. Technical problems resulting from the present Act, such as difficulties of interpretation stemming from the present definitions, should be corrected.

17. The Council hopes that the draft special regulation number 3 published by the Department of Labour and Manpower in the Official Gazette on April 8, 1972, dealing with the training and vocational qualification of manpower and governing automobile repair and maintenance will be adopted and put into force as soon as possible.

18. A bill should be submitted soon after receipt of the report of the Committee on Automobile Insurance.

19. As regards the sale of automobiles, the government should exercise the powers granted to it by Section 102, without delay, especially the following paragraphs:

" (h) to prescribe the information which a used automobile vendor must disclose respecting a used automobile which he offers for sale;

(i) to prohibit the making of such changes as he indicates to used automobiles or parts thereof, and compel the disclosure of the permissible changes which he indicates;

(l) to determine standards of quality and safety for goods;

(m) to determine standards for written instructions and manuals respecting use and maintenance of goods, and the language in which they must be drafted."

22. Bottles and other containers holding medicine should be made in such a way that children cannot open them.

23. Unbreakable bottles with safety caps should be used by pharmacists selling medicine to families.

24. A study should be undertaken to describe and impose safe packaging for all dangerous domestic products.

25. Abuses resulting from misleading packaging should be corrected.

26. The commercial use of non-returnable bottles should be studied in collaboration with the minister responsible for the environment, in the light of bills drawn up in other provinces.

27. The language used on labels as well as their contents (compulsory provisions) should be standardized.

29. The Bureau should eventually have offices in each administrative region; in the beginning civil servants from other departments or persons working on a part time basis could enforce the Consumer Protection Act.

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